

AMENDED IN SENATE APRIL 1, 2013

**SENATE BILL**

**No. 329**

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**Introduced by Senator Gaines**

February 19, 2013

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An act to amend Section 76140 of the Education Code, relating to community colleges.

LEGISLATIVE COUNSEL'S DIGEST

SB 329, as amended, Gaines. Community colleges: nonresident tuition: Lake Tahoe Community College.

Existing law establishes the California Community Colleges, under the administration of the Board of Governors of the California Community Colleges, as one of the segments of public postsecondary education in this state. Existing law establishes community college districts throughout the state, including the Lake Tahoe Community College District, and authorizes them to operate campuses and provide instruction to students. Existing law authorizes community college districts to admit nonresident students, and requires that nonresident students be charged a nonresident tuition fee unless an exemption is applicable.

This bill would exempt from the nonresident tuition fee students who attend Lake Tahoe Community College and who ~~reside~~ *have residence* in one of several designated communities in Nevada, *as provided. The bill would require the governing board of the Lake Tahoe Community College District to adopt rules and regulations for determining a student's residence classification and for establishing procedures for an appeal and review of the residence classification. By imposing a new duty on the Lake Tahoe Community College District, the bill would create a state-mandated local program.*

This bill would make a legislative finding and declaration as to the necessity of a special statute for the Lake Tahoe Community College District with respect to students who reside in nearby communities located in Nevada.

*The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.*

*This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.*

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes.  
State-mandated local program: ~~no~~-yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 76140 of the Education Code, as added  
2 by Section 66 of Chapter 38 of the Statutes of 2012, is amended  
3 to read:

4 76140. (a) A community college district may admit and shall  
5 charge a tuition fee to nonresident students. The district may  
6 exempt from all or parts of the fee any person described in  
7 paragraph (1), (2), ~~or~~ (3), or (4):

8 (1) All nonresidents who enroll for six or fewer units.  
9 Exemptions made pursuant to this paragraph shall not be made on  
10 an individual basis.

11 (2) Any nonresident who is both a citizen and resident of a  
12 foreign country, if the nonresident has demonstrated a financial  
13 need for the exemption. Not more than 10 percent of the  
14 nonresident foreign students attending any community college  
15 district may be so exempted. Exemptions made pursuant to this  
16 paragraph may be made on an individual basis.

17 (3) (A) A student who, as of August 29, 2005, was enrolled,  
18 or admitted with an intention to enroll, in the fall term of the  
19 2005–06 academic year in a regionally accredited institution of  
20 higher education in Alabama, Louisiana, or Mississippi, and who  
21 could not continue his or her attendance at that institution as a  
22 direct consequence of damage sustained by that institution as a  
23 result of Hurricane Katrina.

(B) The chancellor shall develop guidelines for the implementation of this paragraph. These guidelines shall include standards for appropriate documentation of student eligibility to the extent feasible.

(C) This paragraph shall apply only to the 2005–06 academic year.

(4) (A) A student who attends Lake Tahoe Community College and who ~~resides~~ *has residence, pursuant to subparagraph (B),* in one of the following communities in Nevada:

~~(A)~~

(i) Incline Village.

~~(B)~~

(ii) Kingsbury.

~~(C)~~

(iii) Round Hill.

~~(D)~~

(iv) Skyland.

~~(E)~~

(v) Stateline.

~~(F)~~

(vi) Zephyr Cove.

(B) (i) *Residence shall be determined pursuant to Article 5 (commencing with Section 68060) of Chapter 1 of Part 41 of Division 5. A person shall have residence in one of the communities listed in subparagraph (A) if the person has lived in the community for more than one year immediately prior to seeking the fee exemption pursuant to this paragraph.*

(ii) *The governing board of the Lake Tahoe Community College District shall adopt rules and regulations for determining a student's residence classification and for establishing procedures for an appeal and review of the residence classification.*

(b) A district may contract with a state, a county contiguous to California, the federal government, or a foreign country, or an agency thereof, for payment of all or a part of a nonresident student's tuition fee.

(c) Nonresident students shall not be reported as full-time equivalent students (FTES) for state apportionment purposes, except as provided by subdivision (j) or another statute, in which case a nonresident tuition fee ~~may~~ *shall* not be charged.

(d) The nonresident tuition fee shall be set by the governing board of each community college district not later than February 1 of each year for the succeeding fiscal year. The governing board of each community college district shall provide nonresident students with notice of nonresident tuition fee changes during the spring term before the fall term in which the change will take effect. Nonresident tuition fee increases shall be gradual, moderate, and predictable. The fee may be paid in installments, as determined by the governing board of the district.

(e) (1) The fee established by the governing board pursuant to subdivision (d) shall represent for nonresident students enrolled in 30 semester units or 45 quarter units of credit per fiscal year one or more of the following:

(A) The amount that was expended by the district for the expense of education as defined by the California Community College Budget and Accounting Manual in the preceding fiscal year increased by the projected percent increase in the United States Consumer Price Index as determined by the Department of Finance for the current fiscal year and succeeding fiscal year and divided by the FTES (including nonresident students) attending in the district in the preceding fiscal year. However, if for the district's preceding fiscal year FTES of all students attending in the district in noncredit courses is equal to, or greater than, 10 percent of the district's total FTES attending in the district, the district may substitute the data for expense of education in grades 13 and 14 and FTES in grades 13 and 14 attending in the district.

(B) The expense of education in the preceding fiscal year of all districts increased by the projected percent increase in the United States Consumer Price Index as determined by the Department of Finance for the fiscal year and succeeding fiscal year and divided by the FTES (including nonresident students) attending all districts during the preceding fiscal year. However, if the amount calculated under this paragraph for the succeeding fiscal year is less than the amount established for the current fiscal year or for any of the past four fiscal years, the district may set the nonresident tuition fee at the greater of the current or any of the past four-year amounts.

(C) An amount not to exceed the fee established by the governing board of any contiguous district.

1 (D) An amount not to exceed the amount that was expended by  
2 the district for the expense of education, but in no case less than  
3 the statewide average as set forth in subparagraph (B).

4 (E) An amount no greater than the average of the nonresident  
5 tuition fees of public community colleges of no less than 12 states  
6 that are comparable to California in cost of living. The  
7 determination of comparable states shall be based on a composite  
8 cost-of-living index as determined by the United States Department  
9 of Labor or a cooperating government agency.

10 (2) The additional revenue generated by the increased  
11 nonresident tuition permitted under the amendments made to this  
12 subdivision during the 2009–10 Regular Session shall be used to  
13 expand and enhance services to resident students. In no event shall  
14 the admission of nonresident students come at the expense of  
15 resident enrollment.

16 (f) The governing board of each community college district also  
17 shall adopt a tuition fee per unit of credit for nonresident students  
18 enrolled in more or less than 15 units of credit per term by dividing  
19 the fee determined in subdivision (e) by 30 for colleges operating  
20 on the semester system and 45 for colleges operating on the quarter  
21 system and rounding to the nearest whole dollar. The same rate  
22 shall be uniformly charged nonresident students attending any  
23 terms or sessions maintained by the community college. The rate  
24 charged shall be the rate established for the fiscal year in which  
25 the term or session ends.

26 (g) Any loss in district revenue generated by the nonresident  
27 tuition fee shall not be offset by additional state funding.

28 (h) Any district that has fewer than 1,500 FTES and whose  
29 boundary is within 10 miles of another state that has a reciprocity  
30 agreement with California governing student attendance and fees  
31 may exempt students from that state from the mandatory fee  
32 requirement described in subdivision (a) for nonresident students.

33 (i) Any district that has more than 1,500, but less than 3,001,  
34 FTES and whose boundary is within 10 miles of another state that  
35 has a reciprocity agreement with California governing student  
36 attendance and fees may, in any one fiscal year, exempt up to 100  
37 FTES from that state from the mandatory fee requirement described  
38 in subdivision (a) for nonresident students.

39 (j) The attendance of nonresident students who are exempted  
40 pursuant to subdivision (h) or (i), or pursuant to paragraph (3) of

1 subdivision (a), from the mandatory fee requirement described in  
2 subdivision (a) for nonresident students may be reported as resident  
3 FTES for state apportionment purposes. Any nonresident student  
4 reported as resident FTES for state apportionment purposes  
5 pursuant to subdivision (h) or (i) shall pay a per unit fee that is  
6 three times the amount of the fee established for residents pursuant  
7 to Section 76300. That fee is to be included in the FTES  
8 adjustments described in Section 76330 for purposes of computing  
9 apportionments.

10 (k) This section shall become operative on July 1, 2013.

11 SEC. 2. The Legislature finds and declares that a special law  
12 is necessary and that a general law cannot be made applicable  
13 within the meaning of Section 16 of Article IV of the California  
14 Constitution because of the unique circumstances of the Lake  
15 Tahoe Community College District with respect to students who  
16 reside in nearby communities located in Nevada.

17 SEC. 3. *If the Commission on State Mandates determines that*  
18 *this act contains costs mandated by the state, reimbursement to*  
19 *local agencies and school districts for those costs shall be made*  
20 *pursuant to Part 7 (commencing with Section 17500) of Division*  
21 *4 of Title 2 of the Government Code.*